

# FEDERAL ELECTION COMMISSION Washington DC 20463

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### FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 2046.1

December 9, 2014

### **MEMORANDUM**

TO:

The Commission

THROUGH:

Alec Palmer to PCE

Staff Director

FROM:

Patricia C. Orrock

Chief Compliance Officer

DC MYZ Debbie Chacona Assistant Staff Director Reports Analysis Division

BY:

KOP Kristin D. Roser/Sari Pickeral

Reports Analysis Division Compliance Branch

SUBJECT:

Reason To Believe Recommendation - 2014 October Quarterly Report

(Election Sensitive) for the Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to file the 2014 October Quarterly Report in accordance with 52 U.S.C. § 30104(a) (formerly 2 U.S.C. 434(a)). The 2014 October Quarterly Report was due on October 15, 2014.

Under the Administrative Fine Program, the October Quarterly Report is considered an election-sensitive filing for authorized committees supporting candidates involved in the general election as well as all unauthorized committees. For the committees listed on the attached RTB Circulation Report, the October Quarterly Report was an election-sensitive filing. The committees either filed the report after the due date, failed to file the report or failed to file the report prior to four (4) days before the general election (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR. 111.43, these committees should be assessed the civil money penalties included on the attached report.

### Recommendation

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. 434(a)) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.

2. Send the appropriate letters.

# Federal Election Commission Reason to Believe Circulation Report 2014 OCTOBER QUARTERLY Election Sensitive 10/15/2014 H\_S\_P\_UNAUTH

AF#	VF# Committee	Committee Name	Candidate Name	Treasurer	Threshold	2	Threshold PV Receipt Date Days Late	Days Late	LOA	RTB Penalty
	2									
2007	2003 2000 2000	BUNCOMBE COUNTY		STEVEN LYNN	\$125.516	0	11/19/2014 Not Filed	Not Filed	\$15,818	\$1,090
7007	COCOLOGO	REPUBLICAN PARTY		FOSTER						

	\$522	
	\$37,556	
	7	
	10/22/2014	
ļ	0	
	\$124.816	,
	MACTS STORM	
	BERT	HER
	SARVIS, RO	CHRISTOP
	SABVIS COD CENATE SARVIS, RO	SARVIS FOR SEIGNIE CHRISTOP
	SARVIS COD CENIATE SARVIS RO	CHRISTOP

### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of  Reason To Believe Recommendation —  2014 October Quarterly Report (Election  Sensitive) for the Administrative Fine  Program:  BUNCOMBE COUNTY REPUBLICAN  PARTY, and FOSTER, STEVEN LYNN as  treasurer;	) ) ) ) AF# 2867 ) ) )
SARVIS FOR SENATE, and JOSEF STORM as treasurer;	) ) ) ) ) AF# 2871 ) )

### **CERTIFICATION**

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election

Commission, do hereby certify that on December 11, 2014 the Commission took the

following actions on the Reason To Believe Recommendation – 2014 October

Quarterly Report (Election Sensitive) for the Administrative Fine Program, as

recommended in the Reports Analysis Division's Memorandum dated December 09,

2014, on the following committees:

AF#2867 Decided by a vote of 6-0 to: (1) find reason to believe that BUNCOMBE COUNTY REPUBLICAN PARTY, and FOSTER, STEVEN LYNN as treasurer violated 52 U.S.C. 30104(a) (formerly 2 U.S.C. 434(a)) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Federal Election Commission Certification for Administrative Fines December 11, 2014

AF#2871 Decided by a vote of 6-0 to: (1) find reason to believe that SARVIS FOR SENATE, and JOSEF STORM as treasurer violated 52 U.S.C. 30104(a) (formerly 2 U.S.C. 434(a)) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

Shawn Woodhead Werth

Secretary and Clerk of the Commission



# FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

December 12, 2014

Steven Lynn Foster, in official capacity as Treasurer Buncombe County Republican Party 32 Orange Street Asheville, NC 28801

C00165803 AF#: 2867

Dear Mr. Foster:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an October Quarterly Report of Receipts and Disbursements in a calendar year during which there is a regularly scheduled election. This report, covering the period July 1, 2014 through September 30, 2014, shall be filed no later than October 15, 2014. 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)). Because records at the Federal Election Commission ("FEC") indicate that you did not file this report prior to four (4) days before the General Election held on November 4, 2014, the report is considered not filed for the purpose of calculating the civil money penalty.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)). 52 U.S.C. § 30109(a)(4) (formerly 2 U.S.C. § 437g(a)(4)). On December 11, 2014, the FEC found that there is reason to believe ("RTB") that Buncombe County Republican Party and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) by failing to file timely this report on or before October 15, 2014. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$1,090. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <a href="http://www.fec.gov/af/af.shtml">http://www.fec.gov/af/af.shtml</a>. 11 CFR § 111.34. Your payment of \$1,090 is due within forty (40) days of the finding, or by January 20, 2015, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$15,818

Number of Days Late: Not Filed (reports not filed prior to four (4) days before the General Election held on November 4, 2014 are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or January 20, 2015. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. Id. Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111,35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 52 U.S.C. § 30109 (formerly 2 U.S.C. § 437g). 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Buncombe County Republican Party and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 et seq. The FEC may take any and all appropriate

action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

### NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

### 5. Settlement Offers

If you make a payment in an amount less than the calculated civil money penalty as an offer to settle or compromise a debt owed to the Commission, the offer is herewith rejected despite any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FBC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2) (formerly 2 U.S.C. § 437g(a)(2)). It will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) (formerly 2 U.S.C. § 437g(a)(4)(B)) and 30109(a)(12)(A) (formerly 437g(a)(12)(A)) until it is placed on the public record in accordance with 11 CFR § 111.42, unless you notify the FBC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FBC's administrative fine program, including the final regulations, on the FBC's website at <a href="http://www.fec.gov/af/af.shtml">http://www.fec.gov/af/af.shtml</a>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickerall in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,

Lee B. Goodman

Chairman

### ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$1,090 for the 2014 October Quarterly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission P.O. Box 979058 St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox FEC #979058 1005 Convention Plaza Attn: Government Lockbox, SL-MO-C2GL St. Louis, MO 63101

The remittance and your payment are due by January 20, 2015. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

### PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

### PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Buncombe County Republican Party

FEC ID#: C00165803

AF#: 2867

PAYMENT DUE DATE: January 20, 2015

PAYMENT AMOUNT DUE: \$1,090



### Buncombe County Republican Party

Post Office Box 9834, Asheville, NC 28815 828-253-5800
www.BuncombeGOP.org www.facebook.com/buncombegop

January 19, 2015

Regarding:

C00165803

AF#: 2867

Challenge to RTB Finding and/or Civil Money Penalty

Lee E. Goodman
Chairman
Federal Blections Commission
Washington DC 20463

Via Certified Mail article number 7014 2120 0002 4853 0672

Dear Mr. Goodman,

This letter will serve as a challenge to the RTB Finding and/or "civil money penalty" in the above referenced matter.

### CHALLENGE OF YOUR AUTHORITY TO ACT

In your letter dated December 12, 2014 you admit that the civil money penalty is assessed for an alleged failure to file a report "covering the period July 1, 2014 through September 30, 2014." Your fines are based on your contention that that the RTB finding and "civil money penalty" are authorized by subpart B of 11 CFR Ch. 1. You in fact provide excerpts of the regulations which you contend apply. A copy of the regulations you contend apply are labeled as an attachment to your RTB finding letter and presumably serve as the authority you believe justifies your actions.

Section 111.30 of the materials provided however clearly show that your authority to act under Subpart B expired on December 31, 2013.

This raises two possibilities:

- Your authority to act expired and has not been re-authorized prior to the period for which you
  seek a "civil money penalty." Therefore you are not entitled to assess the "civil money penalty" or
  make the RTB finding. OR
- You have provided outdated and misleading information while your regulations impose a
  relatively short time in which to respond to your "finding" and have therefore prejudiced our
  rights to due process.

Section 111.32(e) expressly requires you to provide "An explanation of the respondent's rights to challenge both the reason to believe and the proposed civil money penalty." You have failed to comply with your own requirements by providing outdated and misleading information. You have an express duty to accurately explain our rights as a prerequisite to your ability to impose "civil money penalties." You have failed to comply with your duty and therefore have no authority to impose the penalty.

However even your own rules did not expressly require you to explain by what authority you proceed, we contend that your act of providing the regulatory authority under which you contend you act is based on directives in the United States Code as well as your own historical precedent. This precedent establishes certain rights to due process of law.

In either event your authority to make RTB findings and impose a "civil money penalty" (in this case) under Subpart B is void.

Since the authority under which you indicated that you proceed has clearly expired you are without authorization to act.

### THE COMMISSION'S FINDINGS ARE NOT SUPPORTED FACTUALLY

The commission asserts that reports were required to be filed "covering the period July 1, 2014 through September 30, 2014." No such report was required as shown above.

The commission asserts that it has authority to make RTB findings and impose "civil money penalties" in this case. As shown above no such authority exists.

Upon information and belief the Commission did not receive a complaint as that term is used in section 111.31 and should not proceed under subpart B. The act of the Commission in proceeding without a complaint from a third party makes it both the prosecutor and the adjudicator of the dispute in this matter.

The Buncombe County Republican Party did not engage in any Federal elections activities during the reporting period and is in the process of correcting the erroneous designation that it is a committee subject to the jurisdiction of the FEC. See the affidavits of Henry Mitchell, Chairman and Loretta Reynolds Secretary.

### THE COMMISSION IMPROPERLY CALCULATED THE "CIVIL MONEY PENALTY"

It was improper for the Commission to calculate or impose any fine because the authority under which it acted had expired.

In the event that the commission's authority had been re-authorized it was error for the commission to use the expired schedule of penalties set forth in section 111,43,

In the event that it is found that the commission had authority to impose a "civil money penalty," (which is denied) the commission based that penalty on an erroneous "Level of Activity." The commission's finding that the "Level of Activity" was \$15,818.00 which was not supported by any credible evidence whatsoever. See the affidavit Henry Mitchell and Loretta Reynolds as well as the affidavit of the undersigned regarding the amount raised or spent related to any all Federal elections.

Upon information and belief, the commission had no complaint as required by section 111.31(b). Section 111.31 (b) clearly states that Subpart B will "apply to compliance matters resulting from a

complaint filed pursuant to 11 CFR 111.4 through 111.7." You have failed to provide us with a copy of the required complaint. We hereby demand that the required complaint be produced and the individual who filed said complaint be identified.

### **DEMAND FOR SUPPORTING DOCUMENTS**

The responding party hereby demands:

- Copies of all documents that the Commission used to determine that respondent was a "political committee" during the period referenced above (as that term is used in your letter dated December 12, 2014) or were otherwise subject to requirements to report to the FEC.
- Copies of all documents that the Commission used to determine that the "Level of Activity" of the respondent was \$15,818.00.
- Copies of all documents that will be reviewed by the "reviewing officer" under the authority of Section 111.36 (d).
- Copies of all documents that the Commission used to determine that the noticed sent on December 12, 2014 were properly sent to Mr. Steven Lynn Foster, instead of the undersigned.
- Copies of documents sufficient to identify all the Commission's members" who voted in the
  affirmative that the respondent violated 2 U.S.C. 434(a) as required by section 111.32.

Sincerely,

Buncombe County Republican Party

Katharine L. Penland

Treasurer



# FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

January 28, 2015

Katharine L. Penland, Treasurer Buncombe County Republican Party P.O. Box 9834 Asheville, NC 28815-0834

C00165803 AF#: 2867

Dear Ms. Penland:

On January 26, 2015, the Commission's Office of Administrative Review ("OAR") received your written response ("challenge") for Buncombe County Republican Party and you, in your official capacity as Treasurer, which is being reviewed by OAR. If you have any questions regarding your challenge, please contact this Office on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

Sincerely,

Rhiannon Magruder
Reviewing Officer

Office of Administrative Review



RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2015 MAR 26 PM 4: 20

### **SENSITIVE**

March 26, 2015

### **MEMORANDUM**

To:

The Commission

Through:

Alec Palmer

Staff Director

From:

Patricia C. Orrock

Chief Compliance Officer

Rhiannon Magruder PM

Reviewing Officer

Office of Administrative Review

Subject:

Reviewing Officer Recommendation in AF# 2867 – Buncombe County

Republican Party and Katharine L. Penland, in her official capacity as Treasurer

(C00165803)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation. After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Please note, the Committee filed an Amended Statement of Organization (FEC Form 1) on January 15, 2015 to disclose Katharine L. Penland as the current Treasurer. The Reviewing Officer Recommendation reflects the change in Treasurer after RTB, listing the current respondents as Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer.

Attachment



# FEDERAL ELECTION COMMISSION March 26, 2015 WASHINGTON, D.C. 20463

# REVIEWING OFFICER RECOMMENDATION ("ROR") OFFICE OF ADMINISTRATIVE REVIEW ("OAR")

AF# 2867 - Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer (C00165803)

### **Summary of Recommendation**

Take no further action that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a))<sup>1</sup> and close the file.

### Reason-to-Believe Background

The 2014 October Quarterly Report was due on October 15, 2014. The respondents filed the report on November 19, 2014. The report is election sensitive and was not filed prior to four days before the November 4, 2014 General Election; therefore, the report is considered not filed. 11 C.F.R. §§ 111.43(d)(1) and (e)(2).

On December 11, 2014, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to timely file the 2014 October Quarterly Report and made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on December 12, 2014 to notify them of the Commission's RTB finding and civil money penalty.

### Legal Requirements

The Federal Election Campaign Act ("Act") states that the treasurer of a political committee not authorized by a candidate which is filing on a quarterly basis shall file an October Quarterly Report in a calendar year in which there is a regularly scheduled general election no later than October 15. 52 U.S.C. § 30104(a)(4)(A)(i) (formerly 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(c)(1)(i).

A local committee of a political party is a political committee if it receives contributions aggregating in excess of \$5,000 during a calendar year, it makes payments exempted from the definition of contribution which aggregate in excess of \$5,000 in a calendar year, or it makes contributions or expenditures aggregating in excess of \$1,000 in a calendar year. 52 U.S.C. § 30101(4)(C) (formerly 2 U.S.C. § 431(4)(C)) and 11 C.F.R § 100.5(c). A contribution is a gift, subscription, loan, advance, or deposit of money or anything of value made

<sup>&</sup>lt;sup>1</sup> On September 1, 2014, the Federal Election Campaign Act of 1971, as amended ("the Act"), was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

by any person for the purpose of influencing any election for Federal office. 52 U.S.C. § 30101(8)(A) (formerly 2 U.S.C. § 431(8)(A)) and 11 C.F.R § 100.52(a).

Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on the filing deadline to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

### Summary of Respondents' Challenge

On January 26, 2015, the Commission received the written response ("challenge") from the respondents' current Treasurer, Ms. Katharine L. Penland. Ms. Penland contends the Commission's authority to act under 11 C.F.R. § 111, Subpart B expired on December 31, 2013. Further, Ms. Penland states:

"This raises two possibilities.

- Your authority to act expired and has not been re-authorized prior to the period for which you seek a "civil money penalty." Therefore you are not entitled to assess the "civil money penalty" or make the RTB finding. OR
- You have provided outdated and misleading information while your regulations impose a relatively short time in which to respond to your "finding" and have therefore prejudiced our rights to due process.

Section 111.32(e) expressly requires you to provide 'An explanation of the respondent's rights to challenge both the reason to believe and the proposed civil money penalty.' You have failed to comply with your own requirements by providing outdated and misleading information. You have an express duty to accurately explain our rights as a prerequisite to your ability to impose 'civil money penalties.' You have failed to comply with your duty and therefore have no authority to impose the penalty.

However even your own rules did not expressly require you to explain by what authority you proceed, we contend that your act of providing the regulatory authority under which you contend you act is based on directives in the United States Code as well as your own historical precedent. This precedent establishes certain rights to due process of law.

In either event your authority to make RTB findings and impose a 'civil money penalty' (in this case) under Subpart B is void.

Since the authority under which you indicated that you proceed has clearly expired you are without authorization to act."

The respondents then contend that the report was not required, and the Commission's findings are not supported factually. The respondents explain that "The [Committee] did not engage in any Federal elections activities during the reporting period and is in the process of correcting the erroneous designation that it is a committee subject to the jurisdiction of the FEC." Further, the respondents contend that the Commission improperly calculated the civil money penalty, and the level of activity of \$15,818 is unsupported. The challenge includes affidavits of Henry D. Mitchell, Chairman of the Buncombe County Republican Party; Loretta W. Reynolds, Secretary of the Buncombe County Republican Party; and Katharine L. Penland, Treasurer of the Buncombe County Republican Party. The affidavits of each individual are substantively identical and state:

- "1. The Buncombe County Republican Party (BCGOP) did not engage or request any monies of any form from any Federal Candidate or Party or any other Federal election activities during the reporting period of July 1, 2014 through September 30, 2014.
- 2. The Buncombe County Republican Party (BCGOP) did not solicit or receive any monies on behalf of any Federal Candidate or Patty. Neither did it engage in any other Federal election activities during the reporting period of July 1, 2014 through September 30, 2014."

The respondents conclude by requesting the following supporting documents:

- "Copies of all documents that the Commission used to determine that respondent was a 'political committee' during the period referenced above (as that term is used in your letter dated December 12, 2014) or were otherwise subject to requirements to report to the FEC.
- Copies of all documents that the Commission used to determine that the 'Level of Activity' of the respondent was \$15,818.00.
- Copies of all documents that will be reviewed by the 'reviewing officer' under the authority of Section 111.36(d).
- Copies of all documents that the Commission used to determine that the noticed sent on December 12, 2014 were properly sent to Mr. Steven Lynn Foster, instead of the undersigned.
- Copies of documents sufficient to identify all the Commission's members who voted in the affirmative that the respondent violated 2 U.S.C. 434(a) as required by section 111.32."

### Summary of Office of General Counsel ("OGC") Guidance

On February 3, 2015, the Office of Administrative Review ("OAR") requested that OGC provide guidance on the following items:

1) The respondents' contention that that the Commission's authority to act under 11 C.F.R. § 111, Subpart B has expired;

- 2) The respondents' contention that the Commission inappropriately administered 11 C.F.R. § 111, Subpart B in AF# 2867;
- 3) The respondents' request for supplemental documentation relating to AF# 2867.

On March 19, 2015, OAR received OGC's response. OGC concludes that the Commission's authority to act under 11 C.F.R. § 111, Subpart B has not expired; the Commission appropriately administered 11 C.F.R. § 111, Subpart B in this matter; and OAR may provide all documents requested by the respondents, with the exception of the RTB vote certification.

### Analysis

The respondents' challenge does not indicate why the Committee's 2014 October Quarterly Report was not filed. The respondents only raise questions regarding the Commission's authority and implementation of the Administrative Fines Program, and the Committee's status as a political committee.

The challenge contends that the Commission's authority to act under 11 C.F.R. § 111, Subpart B has expired. However, OGC notes that on December 26, 2013, Congress reauthorized the Commission to act under the Administrative Fines Program, extending the Administrative Fines Program to December 31, 2018. The final rule became effective on January 21, 2014. Thus, the Commission has the authority to assess a civil money penalty against the respondents for the failure to timely file the 2014 October Quarterly Report covering July 1, 2014 through September 30, 2014.

In response to the respondents' statements that the Commission did not provide due process, OGC explains that the Administrative Fines Program may be initiated in the normal course of the Commission carrying out its supervisory responsibilities, and a complaint is not required. In addition, OGC confirms that RAD's RTB Letter accorded the respondents due process in this matter and fulfilled the requirements at 11 C.F.R. § 111.32(e). OGC states that the copy of the Administrative Fines Program regulations sent along with RAD's RTB notification were sent as a courtesy, and this does not provide the respondents with any greater rights than those set forth in the regulations. Further, OGC indicates that the respondents did not articulate the procedural rights they were denied, nor did they cite any legal authority upon which they are basing their claim that they were denied due process.

The respondents also requested supporting documents, and OGC concludes OAR may provide all requested documents, with the exception of the RTB vote certification.<sup>2</sup> RTB vote certifications are not typically provided to respondents nor made public until an administrative fine matter is closed. Since the Commission does not have a past practice or policy of providing RTB vote certifications prior to an administrative fine matter being closed, OGC recommends that OAR not provide this document. OAR's response to the respondents' request for supporting documents is outlined in Attachment 5.

<sup>&</sup>lt;sup>2</sup> Effectively, this document would identify the Commission members who affirmatively voted at RTB that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)).

Finally, the Committee contends that the report was not required, and the Commission's findings are not supported factually because "[the Committee] did not engage in any Federal elections activities during the reporting period and is in the process of correcting the erroneous designation that it is a committee subject to the jurisdiction of the FEC." Further, the respondents contend that the Commission improperly calculated the civil money penalty, and the level of activity of \$15,818 is unsupported.

On November 19, 2014, the Committee filed the 2014 October Quarterly Report. The report is election sensitive and was not filed prior to four days before the November 4, 2014 General Election; therefore, the report is considered not filed. 11 C.F.R. §§ 111.43(d)(1) and (e)(2). On January 20, 2015, the Committee filed the Amended 2014 October Quarterly Report. Both reports disclosed \$9,592 in total federal receipts and \$6,226 in total federal disbursements, indicating that it did engage in federal activity totaling \$15,818 during the reporting period. At the time RAD made its RTB recommendation, there was no indication that this activity was not for the purpose of influencing federal elections. Therefore, the RTB finding was supported, and the civil money penalty was properly calculated pursuant to the schedule of penalties at 11 C.F.R. § 111.43.

At the request of OAR, a RAD Manager contacted the Treasurer on March 25, 2015 to confirm that the Committee's activity during the period was not for the purpose of influencing federal elections, as contended in the challenge. The Treasurer confirmed and also indicated that if the Committee did participate in any federal election activity, it would have been prior to 2011. The Manager advised the Treasurer to file a Miscellaneous Document (FEC Form 99) to document the Committee's status. The Analyst also asked if it was the Committee's intent to terminate its registration with the Commission, and the Treasurer confirmed. The Manager then explained the process of filing a termination report.

That same day, the Committee filed a Form 99 stating:

"This report is to notify the FEC that the Buncombe County Republican Party is terminating its party committee for FEC purposes. The party will continue to report to the NC State Board of Elections. The reason for terminating the FEC reporting is that this party has not contributed funds to Federal candidates in, at least, two (2) election cycles (2011-2015) or four (4) years. The money that is currently in the bank account (checking as well as a CD) totals \$20,172.44 as of today, March 25, 2015. This money will only be used for funding local candidates (County and State) as well as maintaining an office during election years. A final report will be submitted within 15-20 days of the date of this report."

The respondents' challenge, included affidavits, and the Form 99 filed March 25, 2015 all indicate that the Committee has not and will not participate in any activity for the purpose of influencing federal elections that would require it to register as a political committee pursuant to

<sup>&</sup>lt;sup>3</sup> The Committee has been filing on a quarterly basis since it registered as a political committee on 12/31/1982.

11 C.F.R § 100.5. Therefore, the Reviewing Officer recommends that the Committee file a termination report pursuant to 11 C.F.R § 102.3(a)(1) to request the termination of its filing requirements with the Commission.<sup>4</sup> The respondents should submit its termination report within 20 days of receipt of this recommendation.

The Committee, as a registered local party committee, was required to timely file the 2014 October Quarterly Report with the Commission pursuant to 52 U.S.C. § 30104(a)(4)(A)(i) (formerly 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(c)(1)(i). As highlighted by OGC, their challenge fails to address any of the three valid grounds at 11 C.F.R § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. 11 C.F.R. § 104.14(d). However, the Reviewing Officer recognizes that the Committee may not be required to be registered as a political committee with the Commission. Therefore, pending the Committee's submission of a termination report, as advised above, the Reviewing Officer recommends that the Commission take no further action and close the file.

### **OAR Recommendations**

- 1) Pending the Committee's submission of a termination report, as advised above, take no further action in AF# 2867 that Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and close the file; and
- 2) Send the appropriate letter.

### Attachments

Attachment 1 - Challenge Received from Respondents

Attachment 2 -

Attachment 3 – Declaration from RAD

Attachment 4 - Declaration from OAR

Attachment 5 -

<sup>&</sup>lt;sup>4</sup> Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.



### **Buncombe County Republican Party**

Post Office Box 9834, Asheville, NC 28815 828-253-5800

www.BuncombeGOP.org www.facebook.com/buncombegop

January 19, 2015

Regarding:

C00165803

AF#: 2867

Challenge to RTB Finding and/or Civil Money Penalty

Lee E. Goodman Chairman Federal Elections Commission Washington DC 20463

Via Certified Mail article number 7014 2120 0002 4853 0672

Dear Mr. Goodman,

This letter will serve as a challenge to the RTB Finding and/or "civil money penalty" in the above referenced matter.

### CHALLENGE OF YOUR AUTHORITY TO ACT

In your letter dated December 12, 2014 you admit that the civil money penalty is assessed for an alleged failure to file a report "covering the period July 1, 2014 through September 30, 2014." Your fines are based on your contention that that the RTB finding and "civil money penalty" are authorized by subpart B of 11 CFR Ch. 1. You in fact provide excerpts of the regulations which you contend apply. A copy of the regulations you contend apply are labeled as an attachment to your RTB finding letter and presumably serve as the authority you believe justifies your actions.

Section 111.30 of the materials provided however clearly show that your authority to act under Subpart B expired on December 31, 2013.

This raises two possibilities:

- Your authority to act expired and has not been re-authorized prior to the period for which you
  seek a "civil money penalty." Therefore you are not entitled to assess the "civil money penalty" or
  make the RTB finding. OR
- You have provided outdated and misleading information while your regulations impose a
  relatively short time in which to respond to your "finding" and have therefore prejudiced our
  rights to due process.

Section 111.32(e) expressly requires you to provide "An explanation of the respondent's rights to challenge both the reason to believe and the proposed civil money penalty." You have failed to comply with your own requirements by providing outdated and misleading information. You have an express duty to accurately explain our rights as a prerequisite to your ability to impose "civil money penalties." You have failed to comply with your duty and therefore have no authority to impose the penalty.

However even your own rules did not expressly require you to explain by what authority you proceed, we contend that your act of providing the regulatory authority under which you contend you act is based on directives in the United States Code as well as your own historical precedent. This precedent establishes certain rights to due process of law.

In either event your authority to make RTB findings and impose a "civil money penalty" (in this case) under Subpart B is void,

Since the authority under which you indicated that you proceed has clearly expired you are without authorization to act.

### THE COMMISSION'S FINDINGS ARE NOT SUPPORTED FACTUALLY

The commission asserts that reports were required to be filed "covering the period July 1, 2014 through September 30, 2014." No such report was required as shown above.

The commission asserts that it has authority to make RTB findings and impose "civil money penalties" in this case. As shown above no such authority exists.

Upon information and belief the Commission did not receive a complaint as that term is used in section 111.31 and should not proceed under subpart B. The act of the Commission in proceeding without a complaint from a third party makes it both the prosecutor and the adjudicator of the dispute in this matter.

The Buncombo County Republican Party did not engage in any Federal elections activities during the reporting period and is in the process of correcting the erroneous designation that it is a committee subject to the jurisdiction of the FEC. See the affidavits of Henry Mitchell, Chairman and Loretta Reynolds Secretary.

### THE COMMISSION IMPROPERLY CALCULATED THE "CIVIL MONEY PENALTY"

It was improper for the Commission to calculate or impose any fine because the authority under which it acted had expired.

In the event that the commission's authority had been re-authorized it was error for the commission to use the expired schedule of penalties set forth in section 111.43.

In the event that it is found that the commission had authority to impose a "civil money penalty," (which is denied) the commission based that penalty on an erroneous "Level of Activity." The commission's finding that the "Level of Activity" was \$15,818.00 which was not supported by any credible evidence whatsoever. See the affidavit Henry Mitchell and Loretta Reynolds as well as the affidavit of the undersigned regarding the amount raised or spent related to any all Federal elections.

Upon information and belief, the commission had no complaint as required by section 111.31(b). Section 111.31 (b) clearly states that Subpart B will "apply to compliance matters resulting from a

complaint filed pursuant to 11 CFR 111.4 through 111.7." You have failed to provide us with a copy of the required complaint. We hereby demand that the required complaint be produced and the individual who filed said complaint be identified.

### **DEMAND FOR SUPPORTING DOCUMENTS**

The responding party hereby demands:

- Copies of all documents that the Commission used to determine that respondent was a "political committee" during the period referenced above (as that term is used in your letter dated December 12, 2014) or were otherwise subject to requirements to report to the FEC.
- Copies of all documents that the Commission used to determine that the "Level of Activity" of the respondent was \$15,818.00.
- Copies of all documents that will be reviewed by the "roviewing officer" under the authority of Section 111.36 (d).
- Copies of all documents that the Commission used to determine that the noticed sent on December 12, 2014 were properly sent to Mr. Steven Lynn Foster, instead of the undersigned.
- Copies of documents sufficient to identify all the Commission's members" who voted in the affirmative that the respondent violated 2 U.S.C. 434(a) as required by section 111.32.

Sincerely,

**Buncombe County Republican Party** 

Katharine L. Penland

Treasurer

### **DECLARATION OF KRISTIN D. ROSER**

- 1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
- 2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Buncombe County Republican Party:
  - A) Non-Filer Letter, dated November 3, 2014, referencing the 2014 October Quarterly Report (sent via electronic mail to: sfoster@gmg-cpa.com);
  - B) Reason-to-Believe Letter, dated December 12, 2014 referencing the 2014 October Quarterly Report (sent via overnight mail to the address of record).
- 3. I hereby certify that I have searched the Commission's public records and find that Buncombe County Republican Party filed the 2014 October Quarterly Report with the Commission on November 19, 2014.
- 4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 2<sup>nd</sup> day of February, 2015.

Kristin D. Roser

Chief, Compliance Branch Reports Analysis Division

Federal Election Commission



RQ-7

November 3, 2014

FOSTER, STEVEN LYNN, TREASURER BUNCOMBE COUNTY REPUBLICAN PARTY 32 ORANGE STREET ASHEVILLE, NC 28801

**IDENTIFICATION NUMBER: C00165803** 

REFERENCE: OCTOBER QUARTERLY REPORT (07/01/2014 - 09/30/2014)

### Dear Treasurer:

It has come to the attention of the Federal Election Commission that you may have failed to file the above referenced report of receipts and disbursements or failed to file a report covering the entire reporting period as required by the Federal Election Campaign Act, as amended. 52 U.S.C. §30104(a) (formerly 2 U.S.C. §434(a))

It is important that you file this report immediately with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. Please note that <u>electronic filers must submit their reports electronically</u>, as per 11 CFR §104.18. A copy of the report or relevant portions must also be filed with the Secretary of State or equivalent State officer unless the State is exempt from the federal requirement to receive and maintain paper copies. You can verify the Commission's receipt of any documents submitted by your committee on the FEC website at www.fec.gov.

The failure to timely file a complete report may result in civil money penalties, an audit or legal enforcement action. The civil money penalty calculation for late reports does not include a grace period and begins on the day following the due date for the report. Due to heightened security screening measures, delivery of mail by the US Postal Service may be delayed. The Commission recommends that you submit your report via overnight delivery or courier service.

If you have any questions regarding this matter, please contact Christopher Ritchie in the Reports Analysis Division on our toll free number (800)424-9530. The analyst's direct number is (202)694-1146.

### BUNCOMBE COUNTY REPUBLICAN PARTY

Page 2 of 2

Sincerely,

Debbie Chacona

Deborah Chacona Assistant Staff Director Reports Analysis Division

250

### DECLARATION OF RHIANNON MAGRUDER

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) A political committee not authorized by a candidate which is filing on a quarterly basis shall file an October Quarterly Report in a calendar year in which there is a regularly scheduled general election no later than October 15. Reports filed electronically must be received and validated at or before 11:59 pm, Eastern Standard/Daylight Time on October 15, 2014 for the 2014 October Quarterly Report to be timely filed.
- 3) It is the practice of the Reports Analysis Division to document all calls to or from committees regarding a letter they receive or any questions relating to the FECFile software or administrative fine regulations, including due dates of reports and filing requirements.
- 4) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
  - a) Amended Statement of Organization filed by Buncombe County Republican Party and Steven Lynn Foster, in his official capacity as Treasurer. According to the Commission's records, the document was received on June 10, 2014 and lists Steven Lynn Foster as Treasurer;
  - b) Amended Statement of Organization filed by Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer. According to the Commission's records, the document was received on January 15, 2015 and lists Katharine L. Penland as Treasurer;
  - c) Report Cover Page, Summary Page, and Detailed Summary Pages for the 2014 October Quarterly Report electronically filed by Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer. According to the Commission's records, the report covers the period from July 1 through September 30, 2014 and was received on November 19, 2014;
  - d) Report Cover Page, Summary Page, and Detailed Summary Pages for the 2014 October Quarterly Report electronically filed by Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer. According to the Commission's records, the report covers the period from July 1 through September 30, 2014 and was received on January 20, 2015.

- e) Miscellaneous Document electronically filed by Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer. According to the Commission's records, the document was received on March 25, 2015.
- 5) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington, D.C. on the 26th day of March, 2015.

Phiannon Magnider

Rhiannon Magruder Reviewing Officer Office of Administrative Review Federal Election Commission lmage# 14941288334

06/10/2014 1B: 0B

PAGE 1/4 =

FEC FORM 1

NAME OF

COMMITTEE (In full)

ADDRESS (number and street)

(Check if address is changed)

COMMITTEE'S E-MAIL ADDRESS

(Check if address is changed)

(Check if address is changed)

COMMITTEE'S WEB PAGE ADDRESS (URL)

## STATEMENT OF **ORGANIZATION**

Office Use Only Example: If typing, type (Check if name 12FE4M5 is changed) over the lines. BUNCOMBE COUNTY REPUBLICAN PARTY 32 Orange Street **ASHEVILLE** 28801 ZIP CODE A sfoster@gmg-cpa.com Optional Second E-Mail Address 2014 C00165803

3. FEC IDENTIFICATION NUMBER >

06 10

IS THIS STATEMENT

DATE

NEW (N)

OR

AMENDED (A)

; certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Steven Lynn Foster

Signature of Treasurer

Steven Lynn Foster

[Electronically Filed]

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

L	Office Use Only				For further information contact: Federal Election Commission Tall Free 800-424-8530 Local 202-694-1100	FEC FORM 1 (Revised 06/2012)	_
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FEC Form 1 (Revised 02/2009)	Page 2
TYPE OF COMMITTEE	
Candidate Committee:	
(a) This committee is a principal campaign committee. (Complete the candidate information	n below.)
(b) This committee is an authorized committee, and is NOT a principal campaign committee information below.)	ee. (Complete the candidate
Name of Candidate	
Candidate Office Party Affiliation Sought: House Senate Pres	State sident District
(c) This committee supports/opposes only one candidate, and is NOT an authorized comm	
Name of Candidate	
Party Committee:	
(d) X This committee is a SUB (National, State or subordinate) committee of the REP	(Democratic, Republican, etc.) Party.
Political Action Committee (PAC):	
(e) This committee is a separate segregated fund. (Identify connected organization on line 6	3.) Its connected organization is
Corporation Corporation w/o Capital Stock	Labor Organization
Membership Organization Trade Association	Cooperative
In addition, this committee is a Lobbyist/Registrant PAC.	
(f) This committee supports/opposes more than one Federal candidate, and is NOT a sel committee. (i.e., nonconnected committee.)	parate segregated fund or party
in addition, this committee is a Lobbyist/Registrant PAC.	
In addition, this committee is a Leadership PAC. (Identify sponsor on line 6.)	
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	Asheville NC 28801 CITY STATE Z	LIP CODE
Title or Position TREASURER/CPA	Telephone number 828 - 7	71 - 5019

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		Membership Organization Trade Association	Cooperative
		In addition, this committee is a Lobbyist/Registrant PAC.	
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	RALEIGH NC 27605	-
	CITY STATE	ZIP CODE
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Mailing Address	PO BOX 777	
	ENKA NC 28728  CITY STATE	ZIP CODE
Title or Position Treasurer	Telephone number 628 - [	778 5224

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Agent		
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FEC FORM 3X

# REPORT OF RECEIPTS AND DISBURSEMENTS

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<u> </u>	<u> </u>	<u> </u>			LL_	٠_ــــــــــــــــــــــــــــــــــــ		<u> </u>	└─ <b>─</b> ─┴─	<del></del>
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ADDRESS (number and street)	32 Oran	ge Street			<u> </u>			4-4-4-	<u></u>	أحلطلك
Check if different	لبب				<u> </u>	<u></u>	<u></u>	<del></del>		لبب
than previously reported. (ACC)	ASHEV	ILLE L_l_l_L_L	الملطما	ــــــــــــــــــــــــــــــــــــــ	<u> </u>	]	NC	28801	-لــــا	ليبيا
2. FEC IDENTIFICATION NU	MBER <b>V</b>		CITY ▲	_		8	STATE A		ZIP CO	DE 🛦
C C00165803	100 m	3	I. IS THIS REPORT	×	NEW (N)	OR	Marine C.	AMENDED (A)		-
4. TYPE OF REPORT (Choose One)		port hal	Feb 20 (M2)		May 20		\$ 100 C-10 4 2 - 1	Aug 20 (M8)	477	Nov 20 (M11) (Non-Election Year Only)
(a) Quarterly Reports:		a On:	Mar 20 (M3)		Jun 20	(M6)	3.7	Sep 20 (M9)		Dec 20 (M12) (Non-Election Year Only)
April 15	_	<u></u>	Apr 20 (M4)	7.4	Jul 20 (			Oct 20 (M10)		Jan 31 (YE)
: Quarterly Report (Q:	(c)	12-Day	. ^-9 i)}	Primary (1	2P)			neral (12G)	17 V	Runoff (12R)
Quarterly Report (Q2 October 15	2)	Report for th	7.75	Convention	1 (12C)		Spe	cial (12S)		
Quarterly Report (QC  January 31  Year-End Report (YE	·	<b>E</b> 1	ection on	M	/ { '0' ' 0'	, r	A <sub>2.5.</sub> A <sub>3.5.</sub> A	ř Vv. j	in the State o	
Year-End Report (YE  July 31 Mid-Year  Report (Non-election	i)     (ð)	30-Day		\$ <del>₹</del> <del>}</del>	To a State	<u> </u>	<u>arta viii.</u>	<u> </u>	State 0	f
Year Only) (MY)	(6)	POST-Election	2,000	General (3	10G)		Rur	noff (30R)	5 - 10 - 10 - 10 - 10 - 10 - 10 - 10 - 1	Special (30S)
Termination Report (TER)	<u> </u>	·	ection on	(M) (M)	/ \$161818 	1 1	v Sivisi mdianam	<u>'</u>	in the State o	r Lagran
5. Covering Period 07	0	1 20	14.20.3	through	· "(	) 09	30	20	//v / v ) 14	-
certify that I have examined this	Report	and to the bes	st of my kno	wiedge an	d belief it	is tru	e, correc	ct and comple	te.	<del></del>
Type or Print Name of Treasurer	KATHA	RINE L PENLA	ND		·					
Signature of Treasurer KATH	ARINE L P	ENLAND		[Electronic	ally Filed]	D	ate ;	ล ับ / โฮ 11 19		2014
NOTE: Submission of false, errone	ous, or in	complete inform	nation may s	ubject the p	erson sign	ning th	is Repor	t to the penalt	es of 2 l	J.S.C. §437g.
Office Use Only									FOR Rev. 12/2	

	/rite o	FEC Form 3X (Rev. 02/2003)	OF RECEIPTS AND DISBURSEMENTS	Page 2
		COMBE COUNTY REPUBLI	CAN PARTY	
R	eport	Covering the Period: From:	07 01 1 2014 T	o: 09 30 2014
			COLUMN A This Period	COLUMN B Calendar Year-to-Date
6.	(a)	Cash on Hand January 1, 2014		24101.16
	(b)	Cash on Hand at Beginning of Reporting Period	36220.44	
	(c)	Total Receipts (from Line 19)	9592.16	45079.01 45079.01
	(d)	Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	45812.60 (	69180.17
7.	Tota	I Disbursements (from Line 31)	and the state of t	28593.72 28593.72
8.	Rep	h on Hand at Close of orting Period tract Line 7 from Line 6(d))	39586.45	39586.45 (
9.	the	ts and Obligations Owed TO Committee (Itemize all on edule C and/or Schedule D)	0.00	
10.	the	ts and Obligations Owed BY Committee (Itemize all on edule C and/or Schedule D)	0.00	
1	1.000	This committee has qualified as a multic	candidate committee. (see FEC FORM 1M)	
			For further information contact:	
			Federal Election Commission 999 E Street, NW Washington, DC 20463	
			Toll Free 800-424-9530 Local 202-694-1100	

## DETAILED SUMMARY PAGE of Receipts

FEC Form 3X (Rev. 06/2004)

Page 3

Repor		01 2014 т	o: 09 30 2014
	I. Receipts	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
. Co	ntributions (other than loans) From:		
(a)	Individuals/Persons Other		
	Than Political Committees	$\mathcal{G}_{\mathcal{A}}(\mathcal{A}(\mathcal{A}_{\mathcal{A}}(\mathcal{A}(\mathcal{A}_{\mathcal{A}}(\mathcal{A}(\mathcal{A}(\mathcal{A}_{\mathcal{A}}(\mathcal{A}(\mathcal{A}(\mathcal{A}(\mathcal{A}(\mathcal{A}(\mathcal{A}(A$	gen i kanastepin mana in Nasya g
	(i) Itemized (use Schedule A)	6613.15	30361.60
	, ,	San front of the Sometimes and a strain of the same	ter o chair si in a dan a dheachtar a ta mat an taire adh a tir i g Ta mai a ta ing a magainn agus a tha magainn agus an taire agus agus ag si
	(ii) Uniternized	1976,85	12710.78
	(iii) TOTAL (add	1976.85	transi di mandinen di kaneella eraliment kaneella eraliment di matter eraliment. Die approve groon erangen enganeen gebeurg erange, materialistische in die erange erange erange erange erange
	Lines 11(a)(i) and (ii)	8590.00	43072.38
		्रे प्राप्त के कारण के प्राप्त है हैं। कारण कारण कारण कारण के प्राप्त के स्वरूप के स्वरूप के स्वरूप के प्राप्त के अपने कारण के प्राप्त के अपने कारण के स्वरूप के प्राप्त के स्वरूप के स्वरूप के स्वरूप के स्वरूप के स्वरूप के	कर्मात्रीय क्षेत्र प्रदेश के क्षेत्र कर्मात्रीय क्षेत्र कर्मात्रीय क्षेत्र क्षेत्र कर्मात्र कर्मात्र क्षेत्र क स्थापना क्षेत्र क्षेत्र कर्मात्र कर्मात्र कर्मात्र क्षेत्र क्षेत्र क्षेत्र कर्मात्र कर्मात्र कर्मात्र कर्मात्र
(b)	Political Party Committees	0.00	0.00
٠.	Other Political Committees	A specifical and the contract of the contract	The state of the state of the Mile of the State of the American State of the State
(0)	(such as PACs)	1000.00	2000.00
/d\	Total Contributions (add Lines	Asset in a second service of the second	Francisco Company (Company) Company (Company)
(0)	11(a)(iii), (b), and (c)) (Carry	And the second s	grange gar programme control to the pro-
		9590.00	45072.38
<b>T</b>	Totals to Line 33, page 5)	The second of the state of the	The graph of the second of the
	ansfers From Affiliated/Other	0.00	0.00
Pa	rty Committees	0.00 f	The second secon
		0.00	0.00
. All	Loans Received	Acres and and restore breaking track with retirach	Land to the first of the second secon
		South Continue to the month of the content of	were influentiable of the 1900 has been
ما .	an Repayments Received	0.00	0.00
. Off	sets To Operating Expenditures	Appropriate of the Committee of the Committee of the Committee of	eljen profit og profit profit komprikteringskom af til en et til en etter profit profit for prikte
(Re	efunds, Rebates, etc.)	the control of the co	$\hat{\mathcal{C}}(x,r)$ for an elementary constant order to the result of the constant of the result of the
•	arry Totals to Line 37, page 5)	0.00	0.00
	funds of Contributions Made	I was also the term of the good of the stand	Burney of the Deposition that the second and and
	Federal Candidates and Other	gin i sa na gri ama mga mga mga mga maga maga mata minagi.	Special Specia
	ilitical Committees	0.00	0.00
	her Federal Receipts	ार्वेच पर राष्ट्र के एक राज्यारिक क्षारिक क्षारी प्राप्ति का राज्यारिक क्षारी के स्वर्णिक क्षारी का राज्या है प्राप्ति के प्राप्ति के प्राप्ति के प्राप्ति के स्वर्णिक के स्वर्णिक क्षारी के प्राप्ति के स्वर्णिक क्षारी के	n en elle en stan i Maria francisco sull'amende e mission di tra l' La mora en qui carron e sprincipale apparente en capacità de l'accession de l'accession de l'accession de l'acc
	ividends, Interest, etc.)	2.16	6.63
•	ansfers from Non-Federal and Levin Funds	The standing of good good and good and and beautiful to be and	and the second s
	Non-Federal Account	the second secon	Since a Court of the principal country and device define the second section of the country of th
(4)	(from Schedule H3)		0.00
	(nom odredom no)	A CONTRACTOR OF THE CONTRACTOR	Brown and the M. State of the Burton advantage.
		0.00	0,00 Mary the part of the property and the property of the grant of the part o
(p)	Levin Funds (from Schedule H5)	and the control of th	$^{2}$ , $_{1}$ , $_{2}$ , $_{3}$ $^{2}$ $^$
		The experience of the end of the first and being down the end of the	South and the second of the second se
(C)	Total Transfers (add 18(a) and 18(b))	0.00   	t 0.00 An oraș projectiva a sur sur grand anti-artifică să
To:	tal Receipts (add Unes 11(d),		property and an appropriate state of the sta
		9592 18	45079.01
12	, 13, 14, 15, 16, 17, and 18(c))▶	A 9592.16 g The manufacture of the property of the state	Sugarflows, Samuel Control of the Section of the Section Secti
-	tel Sederal Becolata		
	tal Federal Receipts	0502.46	45079.01
(St	ubtract Line 18(c) from Line 19)▶	9592.16	ا 1930 ما المحافظ المح والمحافظ المحافظ المحا

## **DETAILED SUMMARY PAGE** of Disbursements

FEC Form 3X (Rev. 02/2003)

Page 4

	II. Disbursements	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
21.	Operating Expenditures:	- Iolai IIIIs Feriou	Calendar Tear-10-Date
	(a) Allocated Federal/Non-Federal		
	Activity (from Schedule H4)	0.00	0.00
	(I) Federal Share	According to the second of the second	hadden of soften had been been been been been been been bee
	(II) Non-Federal Share	0.00	6209.61
	(b) Other Federal Operating	kana, danan danan Maran Kepantanan dinan dikenandian didikan dilah perlaman di Kepanggan memerintah pendagan dan pendagan digunan pendagan digunan digunan digunan di	The section of the cold territory of the section of the cold territory of the cold terri
	Expenditures	6228.15	6226.15
	(c) Total Operating Expenditures	Here the R. College Water Hall and Bear Secretary and the College Water Secretary and the College Secretary and the Colleg	The specification of the extrement the section of t
	(add 21(a)(i), (a)(ii), and (b))	6226.15	12435.76
22.	Transfers to Affiliated/Other Party	The state of the s	grand for the Control of the Control
	Committees	0.00	0.00
23.	Contributions to	Superior and will addressed and a street of the street	and an transfer to the State of the State of the State of the
	Federal Candidates/Committees and Other Political Committees	i 0.00 🖟	0.00
24	Independent Expenditures	to me and most an implement and the article of the board	Samuelle roll and they they be a March good broad and be started a
<b></b>	· <u>·</u> .	0.00	0.00
25.	(2 U.S.C. §441a(d))	The same of the state of the Mountain state of the state	An the Mark Standard and Standard Comment of the Stand
	(use Schedule F)	0.00	
26.	Loan Repayments Made	0,00	0.00
		des este of colored and a discolored	0.00
	Refunds of Contributions To:	hadradada hadratala da barat	Branding of the Paris of the Control of the Association of the Control of the Con
	(a) Individuals/Persons Other Than Political Committees	0.00	0.00
	man romea commuess	h a F. <u>Landida harrina Marchaella (Marchaella</u> gas com memperatura mengeraturan mengeraturan dan salah sebagai	And the section of the class of the American Continue Continue Con-
	(b) Political Party Committees	0.00	0.00 1
	(c) Other Political Committees	COO CONTRACTOR CONTRAC	The color of a color of the col
	(such as PACs)	0.00 f	0.00 Zamith, ngahangtan samanakan akan kan katan kan ka
	(d) Total Contribution Refunds	ing a sum on one growing to the property of the control of the original control of growing segments of	क्षु करन कर्म व स्थापनारक व दृष्ट गया, वाका वाद २ वाद्युक का नव्यक कर कर कराविकार व विवास
		0.00	0.00
	(add Lines 28(a), (b), and (c))▶	<ul> <li>Secure of sections of content of section described by the section of section described by the section of the sect</li></ul>	<ul> <li>But the Book of the Bound of the Bound of the Book of</li></ul>
29.	Other Disbursements	O.OO The state of	17157.96
30.	Federal Election Activity (2 U.S.C. §431(20))		
	(a) Allocated Federal Election Activity		
	(from Schedule H6)	Consideration of the carbon for the attendance of the field	Province on the Fedding reads made in subsequential (Fig. 1) and the s
	(i) Federal Share	0.00	0.00
	(I) I coolei chao minini	The same of the sa	The state of the s
	/III III miell Chero	. 0.00 :	3.00
	(ii) "Levin" Share	and other of material and and a second and a second	. The consideration of the contraction of the of the state of the stat
	(b) Federal Election Activity Paid Entirely	0.00	0.00
	With Federal Funds	The second section of the s	The second of the Property of the William Second Se
	(c) Total Federal Election Activity (add		
	Lines 30(a)(i), 30(a)(ii) and 30(b))▶	O.00 1	di
31.	Total Disbursements (add Lines 21(c), 22,	and the second of the second o	29593.72
	23, 24, 25, 26, 27, 28(d), 29 and 30(c))	6226.15	29593.72
32.	Total Federal Disbursements	• • • • • • • • • • • • • • • • • • • •	
	(subtract Line 21(a)(ii) and Line 30(a)(ii)	a promotive general control engine (general, lesso est est est est est general)	Akming dien (gazh negel ) mys na h graekag h 4 (gg) en 智明の教授 en 情したか
	from Line 31)	6228.15	23384.11

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PAGE 1 / 24

### **REPORT OF RECEIPTS AND DISBURSEMENTS**

FORIN 3	Fo	or Other	Than An Au	thorize	d Commi	ttee			Office U	se Only	
1. NAME OF COMMITTEE		YPE OR	PRINT ¥		ample: If ty er the lines.			12FE	4M5	. 1	
BUNCOMB	E COUNTY	REPUI	BLICAN PAF	RTY							
				111		<u> </u>	<u> </u>	المالما		<del></del>	1-1-1-1-1
<del></del>	<u> </u>					L-L-L-	سلسا	1	<del></del>	111.	لسسسا
ADDRESS (numbe	er and street)	PO Box	9834			L		<u> </u>	1.1.1.1.	<u> </u>	
	different	لبلبا			حلطا	1.4.4.				بالما	لىبى
than pre reported		ASHEVI			1-1-1-	L	J	NC	2881	5-0834 	لىييا
. FEC IDENTI	IFICATION NUM	ABER ▼	CI	7Y <u>▲</u>	<del></del>		S	TATE A		ZIP CO	DE 🛦
C C0016	65803	P. A.		S THIS REPORT	2 <u>}</u>	NEW (N)	OR	×	AMENDED		
I. TYPE OF I		(b) Mor Rep	ort	20 (M2)		May 20	(M5)		Aug 20 (M8)	1.4	Nov 20 (M11) (Non-Election Year Only)
(a) Quarterly	/ Reports:		Ma	r 20 (M3)	: in 1	Jun 20	. ,		Sep 20 (M9)		Dec 20 (M12) (Non-Election Year Only)
	ii 15 arterly Report (Q1)	.   _		7 20 (M4)	:	Jul 20 (		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Oct 20 (M10)	(5-2) (5-2)	Jan 31 (YE)
· · : July		(C)	12-Day PRE-Election		Primary (1:	•			neral (12G)	. i	Runoff (12R)
	ober 15 arterly Report (Q3)	,	Report for the:	1, )	Convention	•	•	-	ocial (12S)		
Janı Yea	uary 31 r-End Report (YE)	,	Electi	on on	1 4	/ (		<b>v</b> - <b>v</b> - ···	-1	in the State o	1
: Rep Yea	31 Mid-Year oort (Non-election r Only) (MY)	(d)	30-Day POST-Election Report for the:		General (3	0G)		Rur	noff (30R)	Total Control	Special (30S)
· Tem	mination Report R)		Electi	on on	M M	/ 10 D TO		ent uchekya. A triAirey	Y - Y - 3	in the State o	grange in f
. Covering Per	••		64, 477 V 2014		through	- <b>(</b> )	, n )9	30	20		
certify that I hav	e examined this	Report a	ind to the best o	f my kno	wledge and	bellef it	is true	e, correc	ct and comple	te.	
Type or Print Nam	me of Treasurer	KATHAF	RINE L PENLAND	···············							
Signature of Trea	surer KATHA	RINE L PA	INLAND		[Electronics	illy Flied)	Di	ate	ัก ัก / เก็ต 01 - 20		2015
IOTE: Submission	of false, erroneo	us, or inc	omplete information	n may s	ubject the p	erson sigr	ing thi	s Repor	t to the penalt	es of 2	J.S.C. §437g.
Office Use										FOR	M 3X

**SUMMARY PAGE** OF RECEIPTS AND DISBURSEMENTS FEC Form 3X (Rev. 02/2003) Page 2 Write or Type Committee Name BUNCOMBE COUNTY REPUBLICAN PARTY 07 01 2014 09 30 2014 Report Covering the Period: From: COLUMN A **COLUMN B** This Period Calendar Year-to-Date (a) Cash on Hand v v v 📆 😘 24101.16 January 1, 2014 (b) Cash on Hand at Beginning of Reporting Period...... y filos a ejelent egyelent eg (c) Total Receipts (from Line 19) ...... (d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B) ..... 29593.72 7. Total Disbursements (from Line 31)......... and the street of the street of the street Cash on Hand at Close of Reporting Period 39586.45 (subtract Line 7 from Line 6(d))..... 9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D) ..... 10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D) ..... This committee has qualified as a multicandidate committee. (see FEC FORM 1M) For further information contact:

Federal Election Commission 999 E Street, NW Washington, DC 20463

Toll Free 800-424-9530 Local 202-694-1100

#### **DETAILED SUMMARY PAGE**

FEC Form 3X (Rev. 06/2004)

of Receipts

Page 3

Write or Type Committee Name

BUNCOMBE COUNTY REPUBLICAN PARTY 07 01 2014 2014 Report Covering the Period: From: To: COLUMN B **COLUMN A** I. Receipts **Total This Period** Calendar Year-to-Date 11. Contributions (other than loans) From: (a) Individuals/Persons Other Than Political Committees 5553.00 (i) Itemized (use Schedule A)..... 13770.93 (ii) Unitemized ..... 3037,00 (iil) TOTAL (add Lines 11(a)(i) and (li)...... 8590,00 (b) Political Party Committees ..... (c) Other Political Committees 1000.00 (such as PACs)..... Total Contributions (add Lines 11(a)(iii), (b), and (c)) (Carry 45072.38 9590.00 Totals to Line 33, page 5) ...... roden Med Walder i 12. Transfers From Affiliated/Other men i ji i in her hya iya w 0.00 Party Committees..... 0.00 0.00 13. All Loans Received ..... أجر ومراث .... 0.00 14. Loan Repayments Received..... 15. Offsets To Operating Expenditures (Refunds, Rebates, etc.) 0.00 (Carry Totals to Line 37, page 5)..... ang samily na Samily and a great special parties of the configuration of Light of Boundary to Bright St. A. 16. Refunds of Contributions Made to Federal Candidates and Other Political Committees..... g **vivo** Para Para Dan der et La carraga et al ar ar ar ar ar 17. Other Federal Receipts 6.63 (Dividends, Interest, etc.)..... 18. Transfers from Non-Federal and Levin Funds (a) Non-Federal Account (from Schedule H3)..... terriging to be readed in the 0.00 (b) Levin Funds (from Schedule H5) ....... . . . . . karan garak seja Latika pemerja. 1. 2. 1 (c) Total Transfers (add 18(a) and 18(b)).. الأربية المحارف كالمناز والراجي 19. Total Receipts (add Lines 11(d), garaga ay ang katalaga ay maga sa ay ay maga katalaga ay maga ay ang maga ay ang at ang at ang at ang at ang a 45079.01 12, 13, 14, 15, 16, 17, and 18(c)).......▶ 20. Total Federal Receipts (subtract Line 18(c) from Line 19) ........

Franklin to the to the March Control

### DETAILED SUMMARY PAGE

of Disbursements

FEC Form 3X (Rev. 02/2003)

Page 4

		II. Disbursements	COLUMN A	COLUMN B
1.	Оре	erating Expenditures:	Total This Period	Calendar Year-to-Date
	(a)	Allocated Federal/Non-Federal		
		Activity (from Schedule H4)	0.00	0.00
		(i) Federal Share	The commentation of the contract of the contra	The second section is the second section of the second sec
		(ii) Non-Federal Share	0.00	6209,61
	(p)	Other Federal Operating	For the control of the page of the page of the control of the cont	్ జాలోగారు. కొట్టులతో ఈ కార్యేగాలన్ని, జాలోపించ్రకి ఉంటేకి ఉందే. మార్పులు మార్పులు కార్మం కార్యాంలో ప్రామానికి ఆట్లుకోంటే మార్పులు ప్రామానికి మార్పులు మార్పులు మార్పులు మార్పులు మార్పుల
		Expenditures	6226.15	6226 15
	(c)	Total Operating Expenditures	for the second supplies and supplies and second supplies and supplies	the state of the s
		(add 21(a)(i), (a)(ii), and (b))▶	6226.15	12435.76
2.	Tra	nsfers to Affillated/Other Party	The state of the s	Energy track the track of the control of the contro
	Con	nmittees	0.00	0.00
•	CUI	Itributions to eral Candidates/Committees	on a classed by a library, and a collision than a particular or a collision of the collisio	Beneathan than the extended and the all endant fourther green to a security to prove processing they are processed
	and	Other Political Committees	0.00	0,00
	inde	ppendent Expenditures	i new to relegio de la collección de la	lander der Verschanden Annahmen in der Stein der S Verschand der Stein
	(use	Schedule E)	0.00	0.00
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	(a)	Individuals/Persons Other Than Political Committees	0.00	0.00
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	(b)	Political Party Committees	0.00	0.00
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	(-)	(add Lines 28(a), (b), and (c))	0.00	0.00
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		(i) Federal Share	0.00	0.00
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		With Federal Funds	0.00	0.00
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		Lines 30(a)(i), 30(a)(ii) and 30(b))▶	0.00	9.00
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#### **MISCELLANEOUS TEXT (FEC Form 99)**

**PAGE 1/1** 

This report is to notify the FEC that the Buncombe County Republican Party is terminating its party committee for FEC purposes. The party will continue to report to the NC State Board of Elections. The reason for terminating the FEC reporting is that this party has not contributed funds to Federal candidates in, at least, two (2) election cycles (2011-2015) or four (4) years. The money that is currently in the bank account (checking as well as a CD) totals \$20,172.44 as of today, March 25, 2015. This money will only be used for funding local candidates (County and State) as well as maintaining an office during election years. A final report will be submitted within 15-20 days of the date of this report. Thank you very much.

#### OAR's Response to Respondents' Request for Supporting Documents

- 1) In response to the respondents' request for "copies of all documents that the Commission used to determine that respondent was a 'political committee' during the period [of July 1 through September 30, 2014], (as that term is used in your letter dated December 12, 2014) or were otherwise subject to requirements to report to the FEC," OAR provides:
  - a) Amended Statement of Organization filed 6/10/14 and in effect on 10/15/14. See Declaration of Rhiannon Magruder, Attachment 4.
  - b) Cover Page, Summary Page, and Detailed Summary Pages of 2014 October Quarterly Report, filed 11/19/14. See Declaration of Rhiannon Magruder, Attachment 4.

2)

- 3) In response to the respondents' request for "copies of all documents that will be reviewed by the 'reviewing officer' under the authority of Section 111.36 (d)," OAR provides:
  - a) See Request for Guidance Sent to and Guidance Received from OGC, Attachment 2.
  - b) See Declaration of Kristin D. Roser, Attachment 3.
  - c) See Declaration of Rhiannon Magruder, Attachment 4.
- 4) In response to the respondents' request for "copies of all documents that the Commission used to determine that the notice sent on December 12, 2014 were properly sent to Mr. Steven Lynn Foster, instead of [Ms. Katharine L. Penland]," OAR provides:
  - a) Amended Statement of Organization filed 6/10/14 and in effect on 12/12/14. See Declaration of Rhiannon Magruder, Attachment 4.
  - b) Amended Statement of Organization filed 1/15/15 and in effect as of 1/15/15. See Declaration of Rhiannon Magruder, Attachment 4.

March 26, 2015

Katharine L. Penland, Treasurer Buncombe County Republican Party P.O. Box 9834 Asheville, NC 28815-0834

C00165803 AF#: 2867

Dear Ms. Penland:

On December 11, 2014, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Buncombe County Republican Party and you, in your official capacity as Treasurer ("respondents"), violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to file the 2014 October Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by the Candidate and Commission staff, the Reviewing Officer has recommended, pending further action by you, that the Commission take no further action and close the file. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463 or via facsimile (202-208-3333). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

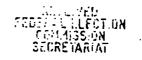
Sincerely,

Rhiannon Magruder Reviewing Officer

Office of Administrative Review

hianna Magnell





2615 APR -9 ₱ 12: 5b

April 9, 2015

#### **MEMORANDUM**

SENSITIVE

To:

The Commission

Through:

Alec Palmer

Staff Director

From:

Patricia C. Orrock

Chief Compliance Officer

Rhiannon Magruder

**Reviewing Officer** 

Office of Administrative Review

Subject:

Final Determination Recommendation in AF# 2867 - Buncombe County

Republican Party and Katharine L. Penland, in her official capacity as Treasurer

(C00165803)

On December 11, 2014, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to timely file the 2014 October Quarterly Report and made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 26, 2015, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer Recommendation ("ROR") dated March 26, 2015 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Committee, as a registered local party committee, was required to timely file the 2014 October Quarterly Report with the Commission pursuant to 30104(a)(4)(A)(i) (formerly 2 U.S.C. § 434(a)(4)(A)(i) U.S.C. 11 C.F.R. § 104.5(c)(1)(i). However, the respondents' challenge, included affidavits, and the Form 99 filed March 25, 2015 all indicate that the Committee has not and will not participate in any activity for the purpose of influencing federal elections that would require it to register as a political committee pursuant to 11 C.F.R § 100.5. Therefore, in the ROR, the Reviewing Officer recommended that the Committee file a termination report pursuant to 11 C.F.R § 102.3(a)(1) to request the termination of its filing requirements with the Commission. Pending the Committee's submission of a termination report, the Reviewing Officer recommended that the Commission take no further action and close the file.

On April 2, 2015, the Committee filed a Termination Report covering January 1 through March 31, 2015, and the Committee will now be eligible for termination once this matter is closed. Therefore, the Reviewing Officer recommends that the Commission take no further action and close the file.

#### **OAR Recommendations**

- 1) Take no further action in AF# 2867 that Buncombe County Republican Party and Katharine L. Penland. in her official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and close the file; and
- 2) Send the appropriate letter.

#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Final Determination Recommendation -	)	AF 2867
Buncombe County Republican Party and	)	
Katharine L. Penland, in her official	)	
capacity as Treasurer (C00165803)	)	

#### **CERTIFICATION**

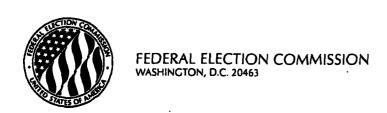
- I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on April 23, 2015, the Commission decided by a vote of 6-0 to take the following actions in AF 2867:
  - 1. Take no further action in AF# 2867 that Buncombe County Republican Party and Katharine L. Penland, in her official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and close the file.
  - 2. Send the appropriate letter.

Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voted affirmatively for the decision.

Attest:

Shawn Woodhead Werth

Secretary and Clerk of the Commission



April 23, 2015

Katharine L. Penland, Treasurer Buncombe County Republican Party P.O. Box 9834 Asheville, NC 28815-0834

C00165803 AF#: 2867

Dear Ms. Penland:

On December 11, 2014, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Buncombe County Republican Party and you, in your official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to file the 2014 October Quarterly Report. By letter dated December 12, 2014, the Commission sent notification of the RTB finding that included a civil money penalty calculated at RTB of \$1,090 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On January 26, 2015, the Office of Administrative Review received your written response challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and your written response. Pending your submission of a termination report, the Reviewing Officer recommended that the Commission take no further action and close the file. A copy of the Reviewing Officer Recommendation was sent to you on March 26, 2015.

On April 23, 2015, the Commission adopted the Reviewing Officer's recommendation, and voted to take no further action with respect to 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and close the file. A copy of the Final Determination Recommendation is attached.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) (formerly 2 U.S.C. § 437g(a)(12)) no longer apply and this matter is now public. Pursuant to 11 C.F.R. §§ 111.42(b) and 111.20(c), the file will be placed on the public record within 30 days from the date of this notification.

If you have any questions regarding this matter, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,

Ann M. Ravel

Chair

Attachment





2015 APR -9 P 12: 5h

April 9, 2015

#### **MEMORANDUM**

**SENSITIVE** 

To:

The Commission

Through:

Alec Palmer

Staff Director

From:

Patricia C. Orrock

Chief Compliance Officer

Rhiannon Magruder

**Reviewing Officer** 

Office of Administrative Review

Subject:

Final Determination Recommendation in AF# 2867 - Buncombe County

Republican Party and Katharine L. Penland, in her official capacity as Treasurer

(C00165803)

On December 11, 2014, the Commission found reason to believe ("RTB") that the respondents violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) for failing to timely file the 2014 October Quarterly Report and made a preliminary determination that the civil money penalty was \$1,090 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 26, 2015, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer Recommendation ("ROR") dated March 26, 2015 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Committee, as a registered local party committee, was required to timely file the 2014 October Quarterly Report with the Commission pursuant to 30104(a)(4)(A)(i)(formerly 2 U.S.C. U.S.C. 8 434(a)(4)(A)(i) 11 C.F.R. § 104.5(c)(1)(i). However, the respondents' challenge, included affidavits, and the Form 99 filed March 25, 2015 all indicate that the Committee has not and will not participate in any activity for the purpose of influencing federal elections that would require it to register as a political committee pursuant to 11 C.F.R § 100.5. Therefore, in the ROR, the Reviewing Officer recommended that the Committee file a termination report pursuant to 11 C.F.R § 102.3(a)(1) to request the termination of its filing requirements with the Commission. Pending the Committee's submission of a termination report, the Reviewing Officer recommended that the Commission take no further action and close the file.

On April 2, 2015, the Committee filed a Termination Report covering January 1 through March 31, 2015, and the Committee will now be eligible for termination once this matter is closed. Therefore, the Reviewing Officer recommends that the Commission take no further action and close the file.

#### **OAR Recommendations**

- 1) Take no further action in AF# 2867 that Buncombe County Republican Party and Katharine L. Penland. in her official capacity as Treasurer, violated 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a)) and close the file; and
- 2) Send the appropriate letter.



## FEDERAL ELECTION COMMISSION Washington DC 20463

THIS IS THE END OF	ADMINISTRATIVE FINE CASE # 28	67
DATE SCANNED	4715	
SCANNER NO.	2	
SCAN OPERATOR		